PRESERVED

App. F. IX-4

Previous Referenees (1937. (b)) File No. 64-37

Serial Nos. 1-2

Letter References

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Nil

Part B for September 1937

SUBJECT.

Addition of a new order as order XXXVII A.- Subsidiary Applications to schedule I of the Civil Pro. Code and amendment to order ~~-~~ XXXIX of the said Code.

Group 15-05-B/14-9-37

Hon'ble Regr High Court

WD 0295—GPB—22,500—13-8-37

Sanctioned

M Gyuga
18/10/37

1388

General and Revenue Secretariat | C/S File No. 64 of 1937. | [App. F. III—2

Serial No. 1

From
The Registrar High Court
Rc No 591/27-28 dy 28.8.37

Requests Sanction to the addition of a new Order as Order XXXVII-A – Interlocutory Applications to Schedule I of the Code of Civil Procedure 1911 and to the alteration of title and removal of Sub-title of order XXXIX of the code as set out in the Appendix to the letter.

Submitted with a draft of a G.O. Sanctioning for appeal or Others Order.

CPR 4/9/6 MSK 6.9.37

Seems now there were no rule for the proper and quick disposal of interlocutory applications and the rule proposed Serves this purpose now may be sanctioned (Chief Secy) for appl.

1st member)

log 6-9
MS 7-9-37
log 9-9
JPR 9/9 MS 9/9

Issue appd Sgd. MSK (10.9.37)

6. SEP. 19- GOVT. OF MYSORE.

OFFICE OF THE FIRST MEMBER & CHANCERY 9 SEP 1937 No. Name Comm. Sheet.

WD 0284—GPB—30,000—13-9-37

2

1

1383

File No.	of 193 .	General and Revenue Secretariat

To
The Regr. High Court
P 1505 Dt 14.9.37

Sanctions the amendments proposed by the High Court re. the interlocutory applicatn

2

1/2

R. O. C. No. 591/27-28
~~D. Dis.~~
encls 1-3 pages

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 28th August 1937.

FROM T. Shamiengar, Esq., B.A., B.L.,
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

CHIEF SECRETARY * 28. AUG. 1937 * GOVT. OF MYSORE.

B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

With reference to Paragraph 130 of the Report of the Mysore Laws' Delays' Committee re: the service of notice in Interlocutory Applications on Pleaders, I am directed to state that the High Court proposes to make the addition of a new order as Order XXXVII-A - Interlocutory Applications to Schedule I of the Code of Civil Procedure, 1911 -- and alteration of the title and removal of sub-title of - Order XXXIX of the said Code as set out in the Appendix to this letter. During the course of inspection of subordinate Courts by the High Court, it has been found that certain rules are necessary regarding the filing and disposal of interlocutory applications in suits, appeals and other proceedings other than execution applications. A great deal of time is often wasted over interlocutory applications. When they first come up in Court an adjournment is often given for notice. When notice has been served -- often after unnecessary delay -- another adjournment is given for written objections to be filed. When they are filed another adjournment is given for arguments and often the history is longer than that..

With a view to insist on promptness on the part of the parties concerned and thereby to avoid ~~delay~~ delay in the disposal of such interlocutory applications, the amendments appended hereto have been framed.

It has been ascertained whether any such rules have been framed in British Indian High Courts. In Patna and Allahabad no special rules have been framed. In Madras and Calcutta they have certain sets of rules framed for these interlocutory applications.

The proposed amendments have been considered by the Rule Committee, who have approved of them. They were published in the Mysore Gazette dated 22-7-1937 in accordance with Section 122 of the Code, but no objection nor suggestion has been received.

I am to request that the Government may be pleased to accord sanction to the proposed amendments under Section 126 of the Code.

I have the honour to be,

Sir,

Your most obedient servant,

J. Srinivasa Iyengar

Registrar.

APPENDIX.

I. Add the following rules as a new Order as "Order XXXVII A - Interlocutory Applications"

ORDER XXXVII A.

Interlocutory Applications.

Interlocutory application.

(1) "Interlocutory application" means an application to a Court in any suit, appeal or proceeding already instituted in such Court other than a proceeding for execution of a decree or order.

Form of Interlocutory application.

(2) Every interlocutory application shall be in writing duly stamped and shall be headed with the cause-title of the suit, appeal or other proceeding to which it relates.

(3) Every interlocutory application shall be moved in Court either when the Judge first sits for the day or, if the Judge so orders, at the beginning of the afternoon sitting, and except with the permission of the Judge no such application shall be moved until the expiry of seven days from the day on which notice of the application has been served as required by sub-rule (4) of this rule nor upon a day other than that specified in the notice to be given under that sub-rule.

Notice.

(4) Unless the Court otherwise orders, notice of every interlocutory application shall be given to every other party to the suit,

appeal

appeal or proceeding, who has entered an appearance in it, or to his pleader by delivering to him a copy of the application and of any affidavit supporting it with a written intimation on the copy of the application specifying the day on which the application is to be moved in Court not less than seven days before that day. Every party and every pleader appearing for a party in any suit, appeal or proceeding, in which that party has entered an appearance, shall accept delivery of any copy of an interlocutory application which any other party proposes to make in that suit, appeal or proceeding and of any affidavit in support of such an application and give a dated acknowledgement in writing or by thumb-impression of its delivery.

Contents thereof.

(5) Except where otherwise provided by any law or rule for the time being in force, an interlocutory application shall state only the order prayed for and shall not contain any statement of facts or argumentative matter. Every application in contravention of this rule may be returned for amendment or rejected.

May be rejected if substantive order is not asked for.

(6) Every application, which does not pray for a substantive order but prays merely that some other application may be dismissed, and every application for an order which ought to be applied for on the day fixed for the hearing of any suit, appeal or matter, may be rejected.

(7) Any party who wishes to oppose an interlocutory application may file a counter affidavit or affidavits to prove facts on which he relies; but written objections or arguments shall not be filed.

Proof of facts by affidavit.

(8) Any facts required to be proved in order to support or oppose an interlocutory application shall, unless otherwise ordered by the Court, be proved by affidavit; but the Judge may in any case direct evidence to be given orally, and thereupon the evidence shall be recorded, and exhibits marked, in the same manner as in a suit, and lists of the witnesses and exhibits shall be prepared and annexed to the order.

II. Alter the title of "Order XXXIX. Temporary Injunctions and Interlocutory Orders" in Schedule I of the Code of Civil Procedure, 1911, as follows:-

"Order XXXIX - Temporary Injunctions and Orders".

III. Remove the two sub-titles "Temporary Injunctions" and "Interlocutory orders" occurring in Order XXXIX of the said Code.

J. Chamarger

Registrar.

MCL

G. R. S. App. F VI—G 2]

SUBJECT ..... 16/9. .....

.....

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Diary. No. of letter replied to.....

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 14. 9. .....193 7.

Signed by ..... Mr - A. S. R. .....

May this be—

(i) printed?

(ii) treated as a standing order?

(iii) published in the Gazette, English Part?

(iv) translated?

(v) placed at the disposal of the press?

(vi) published in the Gazette, Kannada Part?

Section Ch.

File No. 64-37

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Letter No Roc 591 | 27-28 dt 28-8-37 from the Registrar High Court stating that With a View to insist on promptness on the parties Concerned and thereby to avoid delay in the disposal ~~Order thereon. No.~~ of interlocutory ~~Applications~~ applications, the High Court proposes to make the addition of a new Order as Order XXXVII A Interlocutory Applications to Schedule I of the Code of Civil procedure 1911 and alteration

of the title and removal
of sub-title of order XXXIX
of the said Code as set out
in the Appendix and requesting
sanction to the amendments
~~proposed~~ proposed by the High Court

Order P15 of Genl. Dt 14.9.37.

Sanctioned

MS
7.9.37
Chief Secretary to Govt

bsj
6.9

To

The Registrar High Court

List of Enclosure

Copied by

Examined by

WD 03602—GPB - 22,500—12-7-35

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Letter No.Roc.591/27-28 dated 28th August 1937 from the Registrar, High Court of Mysore, stating that with a view to insist on promptness on the parties concerned and thereby to avoid delay in the disposal of interlocutory applications, the High Court proposes to make the addition of a new order as Order XXXVII A - Interlocutory Applications to Schedule I of the Code of Civil Procedure 1911 - and alteration of the title and removal of sub-title of Order XXXIX of the said Code as set out in the Appendix and requesting sanction to the amendments proposed by the High Court.

- - - - - -

ORDER NO: P/SOSCS-64-37-2

Dated, Bangalore, the 14th September 1937.

S A N C T I O N E D.

Chief Secretary to Government.

To

The Registrar, High Court of Mysore.

S.R.2

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Notice.

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accept delivery of any copy of an interlocutory application which any other party proposes to make in that suit, appeal or proceeding and of any affidavit in support of such an application and give a dated acknowledgment in writing or by thumb-impression of its delivery.

Contents thereof.

(5) Except where otherwise provided by any law or rule for the time being in force, an interlocutory application shall state only the order prayed for and shall not contain any statement of facts or argumenta tive matter. Every application in contravention of this rule may be returned for amendment or rejected.

May be rejected if substantive order is not asked for.

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p.t.o.

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"Order XXXIX - Temporary Injunctions and Orders".

III. Remove the two sub-titles "Temporary Injunctions" and "Interlocutory Orders" occurring in Order XXXIX of the said Code.

* * * * * *

Chief Secretary to Government.